

#### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Kemeny on July 29, 2010.

The application has been amended as follows:

**Claim 34. The absorbent article according to claim 1, wherein the first storage layer directly contacts a topsheet defining the liquid permeable upper surface, and the at least one longitudinally extending aperture is empty.**

**Claim 35. The absorbent article according to claim 1, wherein the first storage layer directly contacts a topsheet defining the liquid permeable upper surface, and the at least one longitudinally extending aperture is empty. -----**

#### **EXAMINER'S COMMENT**

2. Applicant's arguments, see Remarks, filed May 20, 2010, with respect to the rejection of claims 1-3, 5, 6, 16-18 and 26-29 under 35 U.S.C. 102 have been fully considered and are persuasive. The rejection of claims 1-3, 5, 6, 16-18 and 26-29 under 35 U.S.C. 102 has been withdrawn.

#### ***Allowed Claims***

3. Claims 1-3, 5, 6, 9-18, 22, 23 and 26-35 are allowed.

#### REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance: Applicant presented arguments which were sufficient to traverse the rejection of independent claims 1 and 16 under 35 U.S.C. 102 as anticipated by Guidotti and amended claims 1 and 16 to recite at least one aperture having a longitudinal dimension in the longitudinal direction of the article that is greater than a transverse dimension in a transverse direction of the article. Applicant also argued that the wicking layer 14 disclosed by Guidotti cannot function as an acquisition layer and thus Guidotti also does not disclose or suggest a first storage layer between the acquisition layer and the liquid permeable upper surface. The examiner notes herein that Guidotti discloses an acquisition layer 19 in association with the embodiment of Fig. 5 wherein the first storage layer 12 is between the acquisition layer and the upper surface. However, this embodiment clearly has a single circular well. Though Guidotti discloses that the wells can be of varying shapes and sizes and can extend from the front edge of the article to the rear edge ('518, Col. 5, lines 49-61), it is the examiner's position that one of ordinary skill in the art would not be motivated to modify the embodiment of Fig. 5 such that the at least one well extends in the longitudinal direction so as to meet the claim limitations regarding dimensions of the at least one aperture. If one of ordinary skill in the art were to do this, since the acquisition layer 19 is clearly smaller than the storage layer and intended to only capture liquid from a single circular well and no other shape of acquisition layer to accommodate other shapes of wells is disclosed or suggested, the at least one well that would be extended longitudinally would permit fluid to flow straight through to the backsheet, forming pockets of exudate that are not absorbed by the storage layer, which would cause odor or other unhygienic results. Thus Guidotti, the closest

prior art of record, does not disclose or suggest all of the limitations of claim 1 or claim 16. Claims 2, 3, 5, 6, 9, 14, 17, 18, 22 and 26-29 depend directly or ultimately from claim 1 or claim 16 and are thus also in condition for allowance. Claims 10, 12, 15 and 23 were all rewritten in independent form and are thus now allowable. Claim 11 was previously allowed, and newly presented claims 30-35 depend directly or ultimately from either of independent claims 1 and 16. All claims are therefore now in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/  
Primary Examiner, Art Unit 3761